

Rush-Bagot Agreement

BY

E. H. SCAMMELL



Paper read before
The Ontario Historical Society,
at the Annual Meeting
held in Ottawa, June 3rd, 1914

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By E. H. SCAMMELL

At the outset I desire to express my indebtedness to my friend Dr. J. M. Callahan, President of the West Virginia University, whose work on "The Neutrality of the American Lakes" has been my chief source of information.

We are justly proud of the magnificent St. Lawrence, Queen of all rivers, which empties into the ocean the waters of our great inland seas. This river has played no small part in the development of Canada; on her bosom floated the tiny ships of the early pioneers, and, later, the hearts of oak of contending nations. Designed by nature to be a great commercial highway, it is only within the memory of living man that she has entered into this heritage.

The lakes which feed this river have also been the theatre of a series of historic conflicts between rival fleets, struggling for mastery. The limits of this paper will not allow me to refer to the influence of the Great Lakes or of the St. Lawrence on the development of this country, nor can I deal with such fascinating themes as the early story of the Hudson's Bay Co., or the intrepid Champlain, or the war with France, while only a brief reference is possible to the war of 1812.

In that unfortunate conflict Canadian and British forces were victorious on land, but our primitive navy suffered several reverses on our inland seas. Many felt that it would be necessary as a precaution against a further out-break of hostilities to build and maintain an adequate naval defence. On the other hand there were those who considered mutual disarmament a better guarantee of peace than preparedness for war.

During the negotiations which led up to the signing of the Treaty of Ghent on the 24th day of December, 1814, much was said concerning the control of the Great Lakes, and in the Parliamentary and Congressional debates, both sides urged that their own absolute control would be essential to the maintenance of peace. Munroe, then Secretary of State for the United States, on Jan. 18th, 1814, wrote that "Experience has shown that Great Britain cannot participate in the dominion and navigation of the lakes without incurring the danger of an early renewal of the war." On the other hand many in England were proposing a boundary division farther south than the lakes. Nathaniel Atcheson, an English writer, in an article of March 2nd, 1814, on "Points to be discussed in

treating with the United States," said that the great feature of the new line should be "exclusion of the Americans from navigation of the St. Lawrence, and all the congregation of tributary seas and waters. They are the natural patrimony of the Canadas. Water communications do not offer either a natural or secure boundary. Mountains separate but rivers approximate mankind." "Hence," said he, "the prominent boundary should be the heights of land separating the respective territories." This would have given to England Lake Champlain, all of the Great Lakes, and a considerable amount of territory south of the lakes.

On the other hand, the American idea was that the boundary should run from Nova Scotia, southwesterly, west, and northwesterly to Lake Nipissing, from there west along to the Mississippi. If the source of the Mississippi had been as far North as the Lake of the Woods, as it was supposed to be, Great Britain would, by this line, have been excluded from all the lakes except Superior.

It is clear from the records of the Treaty negotiations at Ghent, that Lord Castlereagh, the British Foreign Secretary, from the first desired to prevent a contest for naval ascendancy upon the lakes. In his general instructions to the British Commissioners there is no mention of the subject of naval vessels on the lakes, but in a draft of "Instructions relative to the boundaries of Canada," which is marked NOT USED, there is at the close: "N. B. In order to put an end to the jealousies which may arise by the construction of ships of war on the lakes, it should be proposed that the two contracting parties should reciprocally bind themselves not to construct any ships of war on any of the lakes; and should entirely dismantle those which are now in commission, or are preparing for service."

This unused draft is not dated, but it was probably written in July, 1814. For some reason it was considered expedient to make a less liberal proposition upon this subject. By August it appeared to Lord Castlereagh that a boundary through the middle of the lakes, with the right of each country to arm both on water and shore, would tend to create a "perpetual contest for naval ascendancy, in peace as well as in war." He, therefore, thought it necessary for the sake of peace and economy to decide to which power these waters should, in a military sense, exclusively belong. In his instructions to the British Commissioners on Aug. 14, he said:—"Upon the point of frontier you may state that the views of the British Government are strictly defensive. They consider the course of the lakes from Lake Ontario to Lake Superior, both inclusive, to be the natural military frontier of the British possessions in North America."

It appears that the first definite idea of disarmament on the lakes was made by Mr. Gallatin, one of the American representatives, at Ghent, on September 6th, 1814, when the negotiators seemed to have arrived at a deadlock. Although we find one of his co-representatives considered this question outside the pale of their instructions, Mr. Gallatin proposed to refer the matter to his Government. A letter dated October 26th, 1814, to Mr. Munroe, from Mr. Gallatin, is still in existence.

It says, "The right of preserving our naval forces on the lakes to any extent we please is a *sine qua non* by our instructions. Suppose the British proposed mutual restriction in that respect either partial or total, should we still adhere to the *sine qua non*?" No reply to this note has been found, but about the same time Gouverneur Morris, a prominent American, who had been desirous for peace and not desirous for Canada, also suggested an idea for disarmament but solely on the ground of economy. Writing to a friend, he said, "It would be wise to stipulate that neither party should have ships of war on the lakes nor forts on their shores, both being an idle and useless expense."

This discussion seems to have been the genesis of the Rush-Bagot Agreement. The Treaty of Ghent was ratified by the United States on February 17th, 1815, and ten days later the President was authorized "to cause all armed vessels of the United States on the Lakes to be sold or laid up, except such as he may deem necessary to enforce proper execution of revenue laws, such vessels to be first divested of their armament, tackle and furniture, which are to be carefully preserved."

There does not seem to have been any marked activity to put this authorization into operation. At this time extremely bitter feelings still prevailed along the lake shores and there were numerous events which required careful diplomatic handling between the two governments. It was felt, however, that either both countries would have to increase their naval armament or to agree to mutual disarmament. On November 16th, 1815, Secretary Munroe wrote to John Q. Adams, who was at this time Minister of the United States to Great Britain:

"It is evident, if each party augments its force there, with a view to obtain the ascendancy over the other, that vast expense will be incurred and the danger of collision augmented in like degree. The President is sincerely desirous to prevent an evil which it is presumed is equally to be deprecated by both governments. He, therefore, authorizes you to propose to the British Government such an arrangement respecting the naval force to be kept on the lakes by both governments as will demonstrate their pacific policy and secure their peace. He is willing to confine it, on each side, to a certain moderate number of armed vessels, and the smaller the number the more agreeable to him; or to abstain altogether from an armed force beyond that used for revenue. You will bring this subject under the consideration of the British Government immediately after receipt of this letter."

These instructions resulted in an interview between Mr. Adams and Lord Castlereagh on Jan. 25th, 1816. Mr. Adams' proposal was well received by the British Minister, who said that everything beyond what was necessary to prevent smuggling was calculated only to produce mischief; but he was cautious and required time to ascertain whether any ulterior motive lay beyond the proposition. He proposed to submit the matter to his government for consideration, and the interview closed without any indication of the British attitude being given. The debates in Parliament gave little evidence that the proposal would be considered.

They were upon the principle of preserving peace by being prepared for war. Many speeches of a jingo nature were made and one of the Lords of the Admiralty told the House of Commons that "bumboat expeditions and pinchbeck administrations would do no longer for Canada; that Englishmen must lay their account for fighting battles in fleets of three-deckers on the North American Lakes." Notwithstanding this adverse Parliamentary attitude, Lord Castlereagh seems to have carried his point, and on April 15th he informed Mr. Adams that the British Government was ready to meet the proposal of the United States, "So far as to avoid everything like a contention between the two parties which should have the strongest force" on the lakes, adding that they had no desire to have any ships in commission or active service except what might be needed to convey troops occasionally. At this time Adams did not feel like concluding the arrangement without further instructions, and it was agreed that the negotiations should be transferred to Washington and that authority be vested in Mr. Bagot, the British Minister to the United States, to act for Great Britain.

After his interview with Mr. Adams, Lord Castlereagh was prompt in notifying Mr. Bagot of his power to act in the matter of arranging naval forces, as well as the matter of fisheries. When the news reached America of the apparently sudden change in the attitude of the British Government there was some speculation as to the probable cause. Was the prosperity of England on the decline? Or was England acting from purely humanitarian motives? Or did she fear some new trouble?

Then began a series of interviews and an amount of correspondence between Mr. Bagot and the American authorities which ended in a letter from Secretary Munroe, dated August 2nd, 1816, in which he set forth a general proposal for disarmament and the maintenance of neutrality on the Great Lakes which was afterward included almost word for word in the Agreement. It was necessary for both sides to be perfectly assured of each other's bona fides. Further, Mr. Bagot wished to be absolutely certain that he had power to agree to a specific number of ships as a minimum. In the course of these negotiations inquiries were made by both sides, as to the respective strengths of the rival fleets. According to the report furnished to the American authorities by Mr. Bagot, the British force, on September 1st, 1816, was twenty-seven boats, capable of carrying over 300 guns. Some of these had been condemned as unfit for service, but two 74 gun ships were on the stocks, and one transport of 400 tons. According to the report from Secretary Munroe, the United States' force was about the same, viz.: 22 boats capable of carrying over 350 guns. Several of these ships were either laid by or dismantled, but two 74 gun ships were on the stocks.

Owing to the time taken in the transmission of instructions, and the necessity for consultation with the British authorities, the reciprocal and definite reduction of the naval force on the lakes did not occur until after Munroe had become President. H. R. H. the Prince Regent had agreed to Munroe's definite proposition of August 2nd, 1816, and Castlereagh so informed Mr. Bagot on Jan. 31st, 1817.

Mr. Bagot notified Mr. Rush, who was acting as Secretary of State until Mr. Adams could arrive from London, and, on the 28th and 29th of April, 1817, a formal agreement was entered into by an exchange of notes. This agreement at once became effective. There is no evidence that the British Government ever gave to it the formalities of a treaty, and it was not until April 6, 1818, nearly a year after its enactment, that it was submitted by President Munroe to the Senate at Washington; it was proclaimed by him on April 28th. The exact wording is as follows:—

“The naval force to be maintained upon the American Lakes by His Majesty and the Government of the United States shall henceforth be confined to the following vessels on each side, that is—

“On Lake Ontario to one vessel, not exceeding 100 tons burden, and armed with one 18 pound cannon.

“On the upper lakes to two vessels, not exceeding like burden each and armed with like force.

“On the waters of Lake Champlain, to one vessel not exceeding like burden and armed with like force.

“All other armed vessels on these lakes shall be forthwith dismantled and no other vessel of war shall be there built or armed.

“If either party should be hereafter desirous of annulling this stipulation, and should give notice to that effect to the other party, it shall cease to be binding after the expiration of six months from the date of such notice.

“The naval force, so to be limited, shall be restricted to such service as will in no respect interfere with the proper duties of the armed vessels of the other party.”

Never in the history of nations has an international document, so far-reaching in its effect, been compressed into so small a compass as the Rush-Bagot Agreement of 1817. It is a model of brevity and comprehensiveness, and in many respects a hundred years ahead of the times. Edward Atkinson, of Boston, said that it was “the greatest step in progress toward the maintenance of peace and without precedent in history.” The London Times said in reference to it, “No wiser act was ever agreed upon between two nations than the limitation of the naval force on the lakes.”

A rapid review of the past century is necessary to understand the effect of this agreement upon the development and progress of the North American Continent. The first twenty-five years after the signing of the Treaty of Ghent witnessed marked industrial progress, and a gradual shifting of population and industry towards the West. Relations between the United States and Great Britain, and particularly between the United States and Canada, became pleasant, and even cordial. In 1837 clouds appeared upon the horizon owing to the strong sympathy of certain Americans with the Mackenzie rebellion. There was much talk of

the abrogation of the Rush-Bagot Agreement and a general arming of the lakes. Probably the principal factor in restraining the American authorities from overt sympathy with the "Patriots" was the fear that Great Britain would lend to the aid of her colony her great naval resources.

Relations were further strained by the Maine boundary dispute, and raids and counter-raids were constant. In order to cope with the situation both Governments chartered boats for coast defence purposes. The United States were afraid we were arming the frontier against them and during the session of 1840 there was much talk of their unpreparedness and our activity. On March 8th, 1840, the following resolution passed the House of Representatives: "That the President of the United States be requested to communicate to this House, if compatible with the public service, whether the Government of Great Britain has expressed to the Government of the United States a desire to annul the arrangement entered into between the two Governments in the month of April, 1817, respecting the naval force to be maintained upon the American Lakes; and that, if said arrangement be not annulled, whether there has been any violation of the same by the authorities of Great Britain."

Resolution after resolution was introduced calling for more and stronger fortifications, each representative speaking for his own locality. Many residents along the southern shores of the lakes, official and non-official, seemed to have become alarmed at the necessary defence preparations we were making. At this time the American Government built at Pittsburg a side-wheeled iron steamer, the "Michigan." She was taken across the country in sections and placed upon Lake Erie in 1843. She was 498 tons burden with an armament of two eight inch Paixhan guns, and four thirty-two pounder carronades. This was in excess of the stipulations of the Agreement of 1817, both as to tonnage and armament, and in 1844 the British Minister at Washington entered a protest. In the correspondence which ensued it was pointed out by him that, although Great Britain had during the rebellion of 1837 maintained in the defence of the Canadas, a naval force exceeding that stipulated, as soon as the Government felt that danger was past it had reduced the force in order to adhere strictly to the rules of the Rush-Bagot Agreement. It appears that the British Government was satisfied that the United States had no ulterior motive in the construction of the "Michigan," and, as they had not availed themselves of the privilege of maintaining four vessels, this ship was allowed to remain, and it continued for about 50 years to be the only American war ship on the lakes.

No sooner were the troubles over the Mackenzie rebellion and the Maine boundary settled, than a difficulty arose regarding the Western Boundary. "Fifty-four-forty or Fight" was the slogan of those who were enthusiastic in their ideas concerning the "manifest destiny" of the United States, and even the school boys wrote it on the fences. President Polk proclaimed to the Senate on March 4th, 1846, that "Under this aspect of our relations with Great Britain I cannot doubt the propriety of increasing our means of defence both by land and sea." This trouble

was also amicably settled. They did not get fifty-four-forty, nor did they fight.

The American Civil War again brought the question of lake defences to the fore.

The Confederates were reported to have secured some ships which were passing up and down the lakes, flying the British flag, with the intention of engaging in depredations upon the coastal towns and cities of the Union. As soon as the matter was brought to the notice of the Canadian authorities, prompt action was taken by Lord Monck. This, however, did not prevent an agitation in Congress for the abrogation of the Rush-Bagot Agreement, the idea being that with this Agreement out of the way the United States could undertake the immediate construction of a number of war ships. A resolution was introduced by Mr. Spalding, on June 13th, 1864, which was passed on June 18th. The preamble is worth reproduction. It reads: "Whereas the treaty of eighteen hundred and seventeen, as to the naval force upon the lakes, was designed as a temporary arrangement only, and although equal and just at the time it was made, has become greatly unequal through the construction by Great Britain of sundry ship canals; and whereas the vast interests of commerce upon the northwestern lakes, and the security of cities and towns situated on the American borders, manifestly require the establishment of one or more navy yards wherein ships may be fitted and prepared for naval warfare; and whereas the United States Government, unlike that of Great Britain, is destitute of ship canals for the transmission of gunboats from the Atlantic Ocean to the western lakes."

The upshot of these debates was that the Agreement of 1817 was finally abrogated by Congress in February, 1865, although prior to this date the necessary six months' notice had been given to the British Government. This action did not appear to be displeasing to Canada, for on March 2nd, 1865, Mr. Haultain, speaking in our House of Parliament, said:

"I am glad to see that the American Government have given notice of their intention to terminate the convention for not keeping armed vessels on the lakes. I am glad to see that this is to be put an end to, for it was decidedly prejudicial to our interests, and I have no doubt we shall have gunboats on our lakes before the end of the present year. There is no question that should they determine upon going to war with us before the opening of navigation, we might not be able to get a British gunboat on our waters by the St. Lawrence canals, as they are so easily accessible to our opponents, and, without much difficulty, could be rendered useless for navigation."

It was evident that something was needed to combat the feeling that the United States had hostile designs against Canada. Lord Russell suggested that it was time to think of something to take the place of the agreement of 1817 before it should be terminated by the notice already given. Mr. Adams, the American Minister in London, agreed that arma-

ments were expensive, useless, and breeders of suspicion, and he saw no reason for not continuing the Agreement in view of the active efforts of the Canadian authorities. Happily the storm appeared to be clearing, and on March 8th, 1865, Mr. Seward, on behalf of the United States' Government, instructed Mr. Adams to announce that they had decided to abide by the Agreement. There was some ambiguity in Mr. Seward's instructions, which caused misapprehension in England as to whether the previous abrogation had been rendered inoperative. This led to some further correspondence between the two Governments. In Mr. Seward's note to the American Minister he had said:

"You may say to Lord Russell that we are quite willing that the convention should remain practically in force; that this Government has not constructed or commenced building any additional war vessels on the lakes or added to the armament of a single one which was previously its property; and that no such vessel will, in future, be built or armed by us in that quarter. It is hoped and expected, however, that Her Majesty's Government, on its part, so long as this determination shall be observed in good faith by that of the United States, will neither construct nor arm nor introduce armed vessels in excess of the force stipulated for by the convention referred to."

On August 19th, 1865, the British Minister at Washington wrote to Mr. Seward to say that his Government understood from the notice that the Agreement contained in the convention of 1817 would continue in force unless it should be thereafter terminated by a fresh six months' notice. On August 22nd, 1865, Mr. Seward replied that the statement of Her Majesty's Government was accepted as a correct interpretation of the intention of the Government of the United States.

One event which should not be overlooked in the consideration of Canadian-American relations, was the curious refusal of the United States, in 1885, to allow a Canadian troop ship, chartered to suppress the Riel rebellion, to pass through the Soo canal. This action had largely to do with the decision to build a canal on our side of the St. Mary's River, and it is somewhat striking that ninety per cent. of the present traffic through our canal is American.

Another agitation for the abrogation of the Agreement of 1817 arose during the nineties, principally through the development of the American ship-building yards on the lakes. These yards were debarred from competing for the construction of war ships, as the Agreement is extremely explicit, viz.: that they should neither build nor maintain. It was, however, felt that in view of the refusal to grant permission to pass one of our war ships through the American canal, the Government of the States could not well ask us to allow them to use our canals for the removal of war ships from the lakes to the ocean.

In 1895, the Venezuelan dispute drew special attention to the Rush-Bagot Agreement. At this time the Detroit Dry Dock Company had been refused a contract for two twin-screw gunboats, on which they had sub-

mitted the lowest tender. Secretary Herbert of the Navy said that if the language of the Agreement had been "build and maintain" instead of "build or maintain" the Detroit firm should have had the contract. In view of present treaty considerations and the dispute over the interpretation of certain words, this remark is somewhat illuminating.

The Agreement of 1817, notwithstanding the voices of Jingoism, and the numerous demands that it be consigned to the waste paper basket, is still nominally in force, although the United States has, by no means, kept it to the letter. At the present time they have a number of war ships on the lakes, used for training purposes. In a speech delivered by the Hon. Geo. E. Foster, in the House of Commons, on December 1st, 1909, attention was drawn to the presence of these ships. Unfortunately we are largely out of court, for in every case permission was granted by the Dominion Government before these ships were passed through our canals. In all, there are nine of these training vessels, armed in a very different manner to the requirements of the Agreement of 1817, but there is no indication that the United States, in transferring these ships to their lake ports, had any other object in view than that of training the youth of the States bordering on the great inland seas, for service in their salt water navy. Doubtless the change in conditions from 1817 to 1914 make it necessary to re-consider the exact wording of the Rush-Bagot Agreement. There is now little chance of its abrogation, but it would appear to be a most desirable thing, if in connection with the celebration of the Hundred Years of Peace between the British Empire and the United States, it could be re-modelled and given the status of a definite Treaty. The spirit of cordiality and amity between Canada and her great southern neighbour is such today that armed conflict is considered to be almost outside the pale of possibility. It is the desire of the great majority of people on both sides of the line that the mutual relations now existing should be still further improved, and that each country should work out its manifest destiny, to the benefit alike of themselves, their neighbours and the world at large.



